

NOTE TO BOS - I AM INCLUDING THIS COPY OF CHAP. E43
"NIGHT HOUR BYLAW" FOR YOUR CONSIDERATION. I UNDERSTAND IT
WAS NOT IN YOUR ORIGINAL MATERIALS. PLEASE NOTE THAT IT ONLY
APPLIES TO THE RETAIL SALE OF FOOD.

E40. Discharge of Water on Town Ways

No person shall be allowed to discharge in any manner from pipes or hoses from sump pumps, or subdrains from private property onto the public way, or onto public drains, without the written permission of the Board of Selectmen and Engineering Department, not including a temporary discharge which does not exceed 24 hours during any six (6) month period.

E41. Alcoholic Beverage on Town Common

No person shall, at any time, consume any alcoholic beverage on the Town Common.

E42. Alcohol in Public

No person shall drink or possess an unsealed container of any alcoholic beverage as defined in Chapter 138, Section 1 of the Massachusetts General Laws while in or upon any public way or any way which the public has a right of access, whether in or upon a vehicle, or on foot, or while in or upon any public place or public building or playground (except that the Board of Selectmen may, if they deem it appropriate, issue a special one-day liquor license for events at the Senior Center and NARA Park), or while in or upon a private parking lot, or a private way to which the public has access as invitees or licensees, or in or upon any private land or place without the written consent of the owner or authorized person in control thereof. A police officer may arrest without a warrant any person who commits a violation of this Bylaw in his presence and may seize the alcoholic beverages, which shall be kept by him and destroyed upon adjudication or returned to the person entitled to lawful possession.

E43. Night Hour Bylaw

1. No store or place of business engaged in the retail sale of food shall, except as hereinafter provided, be open for the transaction of business between the hours of 12:00 midnight and 6:00 A.M.

2. The term food used in this bylaw shall include any article or commodity, however stored or packaged, intended for human consumption, and shall include alcoholic beverages to be consumed off the premises at which they are sold, unless any other law or permit or license granted to the seller of such beverages shall otherwise provide)

(E43. Night Hour Bylaw Continued)

3. This Bylaw shall not apply to the sale of food or alcoholic beverages when such sale is by a common victualler or innholder, licensed under Chapter 140 of the General Laws, primarily engaged in the sale of food to be consumed on the premises where sold.

4. In cases where, in their opinion, the public good requires it, the Board of Selectmen may issue a special permit allowing a store or place of business engaged in the retail sale of food to remain open for the transaction of such business to an hour, specified in the permit, later than 12:00 midnight or to remain open 24 hours a day. Such special permits shall remain in effect for a period of one (1) year.

5. Violators of this Bylaw shall be subject to a fine of \$200.00 for each violation. In case of continuing violation, every calendar day upon which a store shall remain open in violation of this Bylaw shall be deemed a separate offense.

6. This bylaw shall not apply to any store or place of business engaged in the retail sale of food which was on March 17, 1988 regularly and customarily open for the transaction of business between the hours of 12:00 midnight and 6:00 A.M. Such exemption to existing business shall lapse and be of no further force and effect should any such businesses at anytime fail to operate between the hours of 12:00 midnight and 6:00 A.M. for four (4) consecutive weeks.

Christine Joyce

From: Frank Widmayer
Sent: Thursday, September 18, 2003 9:27 AM
To: Christine Joyce
Subject: CVS 24-hour operation follow-up information

I have spoken to Marty Breen, CVS District Manager, on several occasions. He has also had discussions with Detective Chris Browne. I am satisfied that he is willing to work with us on our concerns and I no longer have issues regarding the 24-hour operation.

Frank J. Widmayer III
Chief of Police
Acton Police Department
P.O. Box 2212
Acton, MA 01720
(978) 263-2911

Acton Police Department

InterDepartmental Memo

From: Frank J. Widmayer, Chief of Police

Date: September 10, 2003

To: Don Johnson, Town Manager

Subj: CVS 24 hour permit

While I am generally in favor of having a pharmacy open 24 hours a day I have a number of concerns and some general comments.

All night pharmacy:

- A late night pharmacy is an attractive target for armed robbery. I would like to have a detective from my department meet with their security people to discuss strategies and procedures on how to lessen this concern.
- I also hope that there would be a number of employees working at the location and not just one or two.

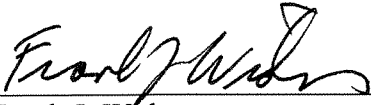
Food sales on a 24 hour basis:

- The area where the CVS is located is quite good for a 24 hour operation and I do not expect that the operation will disturb many neighbors unless it becomes an attraction for groups of kids with loud cars. Much of that problem can be avoided by employee policies since in many cases it is friends visiting employees that cause the disturbances.
- Deliveries are made in the rear and could be an issue if they occur frequently during early morning hours. The CVS is far enough away from the residential area where it should not be a significant problem.
- Food sales are not likely to be much of a problem unless CVS turns into a grocery store.
- This is not the only CVS in Acton and there is the potential for the other one opening up on a 24 hour basis as well. My general support of this application does not extend to other sites without further opportunity to provide input.

Acton Police Department

InterDepartmental Memo

- Traffic generally should not be a major concern in that area and I recall the great amount of controversy that was generated when Purity Supreme opened up all night on Route 62. It turned out to be not much of a traffic problem.


A handwritten signature in black ink, appearing to read "Frank J. Widmayer", written over a horizontal line.

Frank J. Widmayer
Chief of Police

TOWN OF ACTON

Building Department

INTERDEPARTMENTAL COMMUNICATION

To: Don P. Johnson, Town Manager **Date:** September 11, 2003
From: Garry A. Rhodes, Building Commissioner 
Subject: Mass Ave. CVS twenty-four hour permit

I have reviewed the request by CVS to be open 24 hours under Town Bylaw E-43 (Night Hour Bylaw). I would suggest if the Board agrees to the request that a curb-cut be added opposite the curb-cut added by Starbucks Coffee. It would be dangerous for people walking to CVS at night.

Christine Joyce

From: Roland Bartl
Sent: Tuesday, September 09, 2003 1:36 PM
To: Christine Joyce; Frank Widmayer; Robert Craig; Garry Rhodes
Cc: John Murray
Subject: RE: CVS 24 Hour Permit, Massachusetts Ave. Roche Bros. Plaza

Christine:

I would not have any comments with respect to the request at the current location. Recent preliminary site plan activity suggests a possible future move by CVS to the site of the bowling alley. That location is closer to residential areas. I do not know if the 24-hour sales permit travels with the business or stays with a location. If it can travel, perhaps the potential new location should be considered, too.

*Roland Bartl, AICP
Town Planner, Town of Acton
472 Main Street
Acton, MA 01720
978-264-9636*

-----Original Message-----

From: Christine Joyce
Sent: Tuesday, September 09, 2003 10:06 AM
To: Frank Widmayer; Robert Craig; Garry Rhodes; Roland Bartl
Cc: John Murray
Subject: CVS 24 Hour Permit, Massachusetts Ave. Roche Bros. Plaza
Importance: High

The Board has received a request for a 24 hour Food sales permit in conjunction with CVS's plan to be open 24 hours per day. While they do not need a permit to be open as a pharmacy, they would like to accommodate their customers with the opportunity to pick up a gallon of milk or such food items. They Board heard their request last night but have asked that we get the comments from you in order to assist them in making this decision. They will be discussing your comments at the Sept. 22nd Selectmen's meeting at 7:02. Please get you comments in before Sept. 19th. thank you.

If you will recall we have had permits approved for: Purity Supreme, Mobil in West Acton, Sunoco at the 27/111 intersection. Currently we have no permits at these locations or any location in Acton.

9/9/2003

Christine Joyce

From: Robert Craig
Sent: Tuesday, September 09, 2003 9:34 AM
To: John Murray
Cc: Christine Joyce
Subject: RE: CVS 24 Hour Permit, Massachusetts Ave. Roche Bros. Plaza
Importance: High

I would have no comment or objection to the issuance of this permit. Bob Craig

-----Original Message-----

From: John Murray
Sent: Tuesday, September 09, 2003 10:07 AM
To: All Department Heads
Subject: FW: CVS 24 Hour Permit, Massachusetts Ave. Roche Bros. Plaza
Importance: High

-----Original Message-----

From: Christine Joyce
Sent: Tuesday, September 09, 2003 10:06 AM
To: Frank Widmayer; Robert Craig; Garry Rhodes; Roland Bartl
Cc: John Murray
Subject: CVS 24 Hour Permit, Massachusetts Ave. Roche Bros. Plaza
Importance: High

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TOWN OF ACTON
Health Department
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9634
Fax (978) 264-9630

September 10, 2003

To: Christine Joyce

From: Heather Marceau, Health Agent

Re: CVS, Mass. Ave., 24-hour permit request

This memo is written in response to the recent inquiry regarding the request for CVS, Mass. Ave., Acton, MA, to hold a 24-hour permit to operate. CVS Pharmacy currently holds a retail food license, and a recent inspection conducted revealed that their store is kept well and the equipment on site is working properly. The Health Department has no issue with their request to operate on a 24-hour basis.